HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

Habeas Corpus No. 10 of 2005

Sanjeev Kaushik
S/o Late Sri Satish Chand
Vs
1- State of Uttaranchal
2- Magan Pal S/o Sri Chet Ram

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 9.8.2005

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Habeas Corpus No. 10 of 2005

Sanjeev Kaushik
S/o late Sri Satish Chand
R/O Ward No. 3, Mohalla- Qilla
Landlord, Police Station, Manglor
District Haridwar ..... Petitioner

Versus

1. State of Uttaranchal
2. Magan Pal s/O Sri Chet Ram
   R/o village Kurdi, P.S. Manglaur
   District Haridwar
3. Virender Singh, S/o Sri Babu Ram
   R/O village Kota Macharhedi
   P.S. Jwalapur, District Hardwar..... Respondents

Sri Rajendra Singh, Advocate for the petitioner
Sri Manish Arora, Advocate for the respondents 2 & 3
Sri Suhel Siddequi, Additional Govt. Advocate.

Dated: 9.8.2005

Hon'ble Rajesh Tandon J.

By the present writ petition the petitioner has prayed a writ in the nature of Habeas Corpus directing the respondents no. 2 and 3 to produce the wife of the petitioner Smt. Sonia in safe and sound condition before this Court. Further Prayer is made for a writ of mandamus directing the respondents no.2 and 3 to handover safe and sound custody of Smt. Sonia to the petitioner.

Briefly stated, Smt. Sonia is major and her date of birth is 14.11.1981. She has passed M.A. in the year 2002. The petitioner has submitted that the respondents no. 2 and 3 and other family members of Smt. Sonia were deadly against the marriage of the petitioner and Smt. Sonia. The petitioner and Smt. Sonia has solemnized marriage in a temple at Sonipat on 12.10.2002. They have also got their marriage registered with the Registrar, Hindu Marriage, Roorkee on 12.5.2005.

The petitioner has submitted that on 29.6.2005 in the absence of petitioner, respondents no.2 and 3 came at the residence of the petitioner and against the consent of Smt. Sonia forcibly took her with them. The petitioner has approached the Police but police have declined to interfere in the matter, since then Smt. Sonia is in illegal detention of the respondents no. 2 and 3 and her life is in danger.

The petitioner has also filed a supplementary affidavit enclosing a letter of Smt. Sonia addressed to the petitioner Sanjeev Kaushik. This letter read over to Smt. Sonia in the Court and she has stated that it is not possible for her to live with her parents. She has also written that her father has beaten her.

Both husband and wife were examined by the Additional Registrar Smt. Meena Tiwari. The Additional Registrar examined both Smt. Sonia and Sri Sanjeev Kaushik separately. Smt. Sonia in her statement before the Additional Registrar has stated that she was married with Sanjeev Kaushik with her own free will. She was preparing for civil service examination at Dehradun with her husband. If she is asked to go with her parents, there may be some serious incident and her parents will detain her. She did not want to go with her parents. She may be sent along with her husband from the court itself.

Similarly Sri Sanjeev Kaushik has stated in his statement that they were in love since the year 1998 and they married in the year 2002. The parents and family members of Smt. Sonia

were against their marriage and they opposed their marriage. On 29th June 2005 when he went to Delhi in connection with his business, the parents of Smt. Sonia came to his residence and forcibly took Smt. Sonia with them and since then she is detained by them.

Smt. Meena Tiwari, Additional Registrar has also made the following note on the order sheet:

"*Both Mrs. Sonia Saini and Sri Sanjeev Kaushik are present before me. Both parties' learned counsel are also present but both the lawyers want to record and conversation in their absence, so as per circumstances of the case both the lawyers are not present at the time talk with parties. I asked the parties separately about the matter and also recorded statements separately. The petitioner and Ms. Sonia both agreed that they are married and living as husband and wife and Ms. Sonia wants to go with her husband Sri Sanjeev Kaushik. The sealed envelop is kept with file in which the recorded statements are placed.*

This is my report. Submitted".

Smt. Sonia is personally present in the Court. She has stated that she has made the statement before the Additional Registrar voluntarily and she wants to go and live with her husband. She was detained in her parent's house against her will.

I have examined the entire material on record and have perused the statements of both the parties. From the documents

on record it is evident that the age of Smt. Sonia is 24 years and the age of Sri Sanjeev Kaushik is 32 years. Both the parties have solemnized marriage in the year 2002 and they were living together as husband and wife. They have also got their marriage registered before the Registrar, Hindu Marriage, Roorkee on 12.5.2005. The respondents no. 2 and 3 have illegally detained Smt. Sonia in their house against her will and thus the writ petition for habeas corpus is liable to allowed.

As will appear from the aforesaid facts, the petitioner has been successful in proving the illegal and wrongful detention of Smt. Sonia by the respondents no. 2 and 3. Consequently, the respondents having produced Smt. Sonia before the Court, she is allowed to go along with her husband according to her own will. The respondent no. 1 is directed to ensure the safety of Smt. Sonia and her husband by providing them sufficient police protection.

Accordingly, the writ petition is allowed. Let copy of this order be issued to the petitioner today.

9.8.2005 **Rajesh Tandon J.**

*Dhyani